

TITLE NINE - Taxation

Chap. 185. Income Tax.

Chap. 187. Motor Vehicle License Tax.

CHAPTER 185 Income Tax

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CROSS REFERENCES

Commissioner of Taxation - see CHTR. 7.03 et seq.

Municipal income taxes - see Ohio R.C. Ch. 718

185.01 ALLOCATION OF FUNDS.

EDITOR'S NOTE: Monies collected pursuant to this chapter shall be distributed as provided by Council from time to time.

185.02 DEFINITIONS.

As used in this chapter, the following words shall have the meaning ascribed to them in this section, except if the context clearly indicates or requires a different meaning.

- (a) "Association" means a partnership, limited partnership, or any other form of unincorporated enterprise owned by one or more persons.
- (b) "Board of Review" means the Board created by and constituted as provided for in Section 185.12.

- (c) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit, or ordinarily conducted for profit, including but not limited to the renting or leasing of real estate or personally, whether by an individual, co-partnership, association, corporation or any other entity.
- (d) "Commissioner of Taxation" means the person so designated and appointed by the Mayor and approved by Council, or the person executing the duties of the aforesaid Commissioner.
- (e) "Corporation" means a corporation, or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign country or dependency.
- (f) "Domicile" means the place where a taxpayer has his true, fixed and permanent home and to which, whenever the taxpayer is absent, he has the intention of returning. Factors to be considered when determining domicile are, but not limited to: registration of vehicles; current driver's license; address on Federal and State income tax returns; address on voter's registration; attendance at schools by taxpayer's family; county of taxpayer's estate if deceased.
- (g) "Employer" means an individual, co-partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other compensation basis.
- (h) "Fiscal year" means an accounting period of twelve months ending on any day other than December 31.
- (i) "Net profits" means the net gain from the operation of a business, profession, enterprise or activity after provision for all ordinary and necessary expenses incurred in the conduct thereof, either paid or accrued in accordance with the accounting system used by the taxpayer for federal income tax purposes providing such accounting method does not conflict with any provision of this chapter or regulations of the Commissioner of Taxation adopted pursuant thereto, and without deduction of taxes imposed by this chapter, federal taxes based on income or in the case of an unincorporated entity without deduction of salaries or withdrawals of partners, or other owners.
- (j) "Nonresident individual" means an individual domiciled outside the Village.
- (k) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Village.
- (l) "Pass-Through Entity" means a partnership, S corporation, limited liability company, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code excluding an S Corporation. (O.R.C. 718.14(a)(2)) .
- (m) "Pension" means income earned or received as a result of retirement from employment from an IRS qualified retirement plan and which is generally, although not exclusively, reported to the taxpayer by the payor on a Form 1 099-R or similar form.
- (n) "Person" means every natural person, co-partnership, association or corporation. Whenever used in any clause prescribing and imposing a penalty, "person" as applied to associations, means the partner or members thereof, and as applied to corporations, the officers thereof.
- (o) "Resident individual" means an individual domiciled in the Village.
- (p) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Village.

- (q) "Salaries, Wages and Other Compensation" means the total compensation paid to an individual in cash or in kind on an hourly, daily, weekly, monthly, annual, or other basis, including, but not limited to, the following: severance or termination pay; wage continuation payments made as a result of early retirement or employment termination; wage continuation payments made as a result of sickness or temporary disability and whether paid by the recipient's employer or by a third party; vacation or holiday pay; tips or gratuities received; group term insurance premiums paid on an employee's behalf; employee contributions to tax sheltered annuities, non-qualified pension plans, or into employer or third party trusts or pension plans as permitted by IRS and which may be excludable from wages for federal tax purposes; employee contributions to "Cafeteria Plans" as permitted by IRS under IRS Code Section 125, 127 or 129 or similar plans and which may be excludable from wages for federal purposes; ordinary income portion of stock options or employee stock purchase plans; supplemental unemployment benefits (SUB pay); jury duty pay; strike pay; employer or employee contributions or amounts credited to nonqualified pension plans or deferred compensation plans at the time of deferral and to the extent subject to the Medicare Tax; working conditions fringe benefits and unemployment compensation subject to tax by IRS; guardian, executor, conservator, trustee, or Commissioner fees; bonuses; ordinary income portion of lump sum distributions which may become subject to federal tax because the recipient did not roll over the distribution within the time required by IRS.
- (r) "Taxable year" means the calendar year, or the fiscal year, ending during such calendar year upon the basis of which the net profits are to be computed under this chapter.
- (s) "Taxing municipality" means any municipal corporation levying a municipal income tax on salaries, wages, commissions and other compensation earned by individuals, and on the net profits earned from the operation of a business, profession or other activity.
- (t) "Taxpayer" means an individual, co-partnership, association or any corporation or other entity required hereunder to file a return or pay a tax.
- (u) "Village" means the Village of Whitehouse, Lucas County, Ohio.

In all definitions and these regulations, the singular shall include the plural and the masculine shall include the feminine and the neuter.

(Ord. 23-2003. Passed 11-18-03.)

185.03 IMPOSITION OF TAX.

Subject to the provisions of Section 185.14, an annual tax for the purposes specified in Section 185.01 shall be imposed on and after January 1, 1970, at the rate of 1-1/2 % per annum upon the following:

- (a) On all salaries, wages, commissions and other compensation earned or received as defined at Section 185.02(q), and net profits from unincorporated business entities and professions earned on and after January 1, 1970, by residents of the Village.
- (b) On all salaries, wages, commissions and other compensation earned or received as defined in Section 185.02(q) on and after January 1, 1970, by nonresidents for work done or services performed or rendered in the Village.

- (c) On the portion attributable to the Village of the net profits earned on and after January 1, 1970, of all resident unincorporated businesses, professions and other entities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the Village.
- (d) On the portion of the distributive share of the net profits earned on and after January 1, 1970, of a resident partner or owner of a resident unincorporated business entity not attributable to the Village and not levied against such unincorporated business entity; provided that such income of such resident partner or owner shall be subject to the Relief and Reciprocity Provisions of Section 185.14 and to the exemption provided at Section 185.031, Exceptions; Sources of Income Not Taxed.
- (e) On the portion attributable to Whitehouse of the net profits, earned on or after January 1, 1970, and during the effective period of this chapter, of all corporations derived from work done or services performed or rendered and business or other activities conducted in the Village, whether or not such corporations have an office or place of business in the Village.
- (f) That portion of the net profits attributable to the Village of a taxpayer conducting a business, profession or other activity, both within and without the boundaries of the Village shall be determined as provided in O.R.C. 718.02 reprinted at the end of this chapter, and in accordance with the rules and regulations adopted by the Commissioner of Taxation pursuant to this chapter.
- (g) Consolidated returns from affiliated groups or corporations that file consolidated returns with IRS for the same reporting period will be accepted in accordance with Rules and Regulations prescribed by the Commissioner. (O.R.C. 718.06)
- (h) The portion of the net operating loss sustained in any taxable year allocated to the Village may be applied against the portion of profit of succeeding years allocated to the Village for a maximum of five (5) years, but no portion of net operating loss shall be carried back against the net profits of any prior year.
- (i) The portion of a net operating loss sustained shall be allocated by the Village in the same manner as provided herein for allocating net profits to the Village.
- (j) Spouses are permitted to report their income taxable to Whitehouse on the same tax return. However, a spouse may not offset one spouse's business losses, including rental losses, against the other spouse's W-2 income nor may an individual offset his or her W-2 income with losses, including rental losses, from a business. Business losses, including rental losses, may be carried forward if unused in the current tax year in accordance with Section 185.03 (h). Appropriate schedules as filed with IRS must be attached to the Whitehouse Tax Return.
- (k) On all income derived from gaming, wagering, lotteries, or schemes of chance by residents of Whitehouse or by nonresidents of Whitehouse when the income derived from gaming, wagering, lotteries or schemes of chance is won or received as a result of transactions conducted in Whitehouse.
- (l) If a resident of Whitehouse operates a business (including rentals) in another taxing municipality in Ohio and the business or businesses incur a loss, the amount of the loss is deemed primarily subject to the taxing jurisdiction of the other taxing municipality and may not be used to reduce the taxpayer's Whitehouse tax base.

- (m) The owners or partners of a Pass-Through Entity as defined at O.R.C. 718.14(A)(2) which is reprinted at the end of this chapter, who or which are subject to the tax imposed by this chapter, must file an individual tax return on which they are to report their respective share of the profits or losses of the Pass-Through Entity. This is in lieu of the Pass-Through Entity paying the tax on that portion of its net profit subject to the tax. However, a resident Pass-Through Entity is still required to file an informational return with the Tax Commissioner and reporting thereon its income and the distributive share of each owner or partner.
(Ord. 23-2003. Passed 11-18-03.)

185.031 EXCEPTIONS; SOURCES OF INCOME NOT TAXED.

The tax provided for herein shall not be levied on the following:

- (a) Pay or allowance of active members of the armed forces of the United States because of active duty service or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities and only to the extent that the said income is exempt from federal income tax.
- (b) Poor relief, Social Security benefits, unemployment benefits, IRS qualified retirement plan or similar payments, disability benefits received from local, State or Federal governments or charitable, religious or educational organizations. The disability benefits excludable must be of a permanent nature as determined by a physician or government entity.
- (c) Proceeds of insurance paid by reason of death of the insured, pensions, including industrial pensions, disability benefits paid for total and permanent disability, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.
- (d) Receipts from seasonal or casual entertainment, amusement, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations and associations and only to the extent that the said income is exempt from Federal Income Tax.
- (e) Alimony received.
- (f) Compensation for personal injuries or for damages to property by way of insurance or otherwise, but this exclusion does not apply to compensation paid for lost salaries or wages.
- (g) Interest, dividends and other revenue from intangible personal property as set forth in O. R.C. 718.01.
- (h) Payments made to Election Workers.
- (i) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce.
- (j) Salaries, wages, commissions and other compensations and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of a municipality to impose net income taxes.

- (k) The amount of unreimbursed employee business expenses (2106 Expenses) which the employee computed as an itemized deduction after reduction by two per cent (2%) of the employee's AGI on his federal tax return. Taxpayer must furnish a copy of the Form 2106 and Schedule "A" of Form 1040 as filed with the IRS. This deduction must be allocated first to the municipality where the employment occurred and credit will be given for any tax paid to the municipality of employment IAW Section 185.14.
- (l) Compensation paid to a nonresident individual for personal services performed within Whitehouse, if the personal services are performed during twelve (12) or fewer days during the calendar year. A day is a full day or any fractional part of a day.

Compensation paid to a nonresident employee by a nonresident employer for work or services performed in Whitehouse if the services or work is performed during twelve (12) or fewer days during the calendar year and further provided that the individual's employer is located outside of Whitehouse and the individual pays tax on the compensation to the municipal corporation in which the employer's principal place of business is located and no portion of the tax paid is refunded to the individual.

The foregoing two paragraphs do not apply to professional entertainers, professional athletes, promoters of professional entertainment or sporting events and their employees.
- (m) Parsonage Allowances paid to "Ministers of the Gospel" in the form of a rental allowance as part of a Minister's compensation to the extent excluded from Federal or Ohio Tax. O.R.C. 718.01 (f)(7).
- (n) Expenses Not Deductible.
 - (1) No deduction for self-employed tax paid by self-employed taxpayers as permitted by IRS is permitted by Whitehouse.
 - (2) No deduction for contributions to IRA or Kehough plans made by self-employed taxpayers as permitted by IRS is permitted by Whitehouse.
 - (3) No deduction is permitted for medical insurance premiums deductible by self-employed taxpayers on a taxpayer's federal tax return.
- (o) A shareholder's distributive share of net profits from an S Corporation as set forth at O.R.C. 718.06 (F)(9) reprinted at the end of this chapter.

(Ord. 23-2003. Passed 11-18-03.)

185.04 EFFECTIVE DATE.

Said tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation and with respect to the net profits of persons, businesses, professions or other activities earned on and after January 1, 1970.
(Ord. 23-2003. Passed 11-18-03.)

185.05 ANNUAL RETURN AND PAYMENT OF TAX; EXTENSIONS; AMENDED RETURNS.

(a) Each taxpayer or person who engages in business, or whose salaries, wages, commissions or other compensation is subject to the tax imposed by this chapter shall, whether or not a tax be due thereon, make and file a return on or before April 30, 1966, and on or before April 30 of each year thereafter until the tax year which begins on January 1, 2003 at which time the due date changes to April 15, 2004, and on April 15 of each year thereafter, with the Commissioner of Taxation on a form or forms furnished by or obtainable upon request from such Commissioner setting forth:

- (1) The aggregate amounts of salaries, wages, commissions and other compensation earned or received as defined at Section 185.02(q); and
- (2) The gross income from a business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income;
- (3) Such income shall include only income earned or received during the year, or portion thereof, covered by the return and subject to the tax imposed by this chapter;
- (4) The amount of the tax imposed in this chapter on such earnings and profits;
- (5) Any credits to which the taxpayer may be entitled under the provisions of Sections 185.06, 185.07 or 185.14;
- (6) Such other pertinent statements, information returns, or other information as the Commissioner may require;
- (7) The taxpayer making a return shall, at the time of filing thereof, pay to the Commissioner, the balance of tax due, if it exceeds \$9.99, after deducting:
 - A. The amount of Whitehouse income tax deducted or withheld at the source pursuant to Section 185.06;
 - B. Such portion of the tax as has been paid on declaration by the taxpayer pursuant to Section 185.07;
 - C. Any credit allowable under the provisions of Section 185.14.

(b) Should the return, or the records of the Commissioner indicate an overpayment of the tax to which the Village is entitled under the provisions of this chapter, such overpayment shall first be applied against any existing liability of tax, penalty, or interest and the balance, if any, at the election of the taxpayer communicated to the Commissioner, shall be refunded or transferred against any subsequent liability. However, overpayments of less than five dollars (\$5.00) shall not be refunded, but may be carried forward to a subsequent tax year.

(c) The claiming of credit on a return or declaration for amounts paid to any other municipality under the provisions of Section 185.14 shall constitute an assignment and transfer to the Village of Whitehouse, of all right, title and interest of the taxpayer claiming such credit in and to any claim for refund of such amount so paid to such other municipality. In the event a refund is not received by the Village of Whitehouse in an amount equal to the credit claimed by reason of tax payments made to another municipality, then the taxpayer shall be liable to the Village of Whitehouse for and as taxes due from the date of the filing said return, upon which said credit was claimed of the amount by which the claimed credit exceeds the amount of refund received by the Village of Whitehouse.

(d) Assignment of any claim for refund to which a Whitehouse resident may be entitled from another municipality shall be tentatively accepted as payment of that portion of Whitehouse income tax represented by such assignment provided, however, if satisfactory evidence is offered that the taxpayer is entitled to the claim covered by the assignment, such taxpayer shall not be deprived of credit, thereof, because of the fault or neglect on the part of either municipality.

(e) Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Sections 185.11 and 185.14. Such amended returns shall be on a form obtainable upon request from the Commissioner. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

(f) Within three (3) months from the final determination of any Federal tax liability affecting the taxpayer's Whitehouse tax liability, such taxpayer shall make and file an amended Whitehouse return showing income subject to the Whitehouse tax based upon such final determination of Federal Tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.

(g) The officer or employee of such employer having control or supervision or charged with the responsibility of filing the return and making the payment, shall be personally liable for failure to file the return or pay the tax, penalties, or interest due as required herein. The dissolution, bankruptcy or reorganization of any such employer does not discharge an officer or employee's liability for a prior failure of such business to file a return or pay taxes, penalties, or interest due.

(h) The Tax Return is considered received, if mailed, on the date post marked by the United States Postal Service or on the date delivered without mailing to the Whitehouse Tax Office.

(i) Extension of time for filing returns. Taxpayers granted extensions of time for filing their Federal income tax returns may have an extension for filing their Whitehouse Tax Return provided that a copy of the federal extension is filed with the Commissioner on or before the original due date of the Whitehouse return.

The extended date for filing the Whitehouse return will be the same as the extended date for the federal return regardless of the original due date of the tax return. Statutory interest of one-half per cent (1/2%) per month (Section 185.10) or fraction thereof and penalty of one per cent (1%) per month or fraction thereof will be charged from the original due date of the return until the date of actual payment. The extension is for extending the due date of the tax return and does not extend the time for paying any tax due.

If a taxpayer wishes to extend the time for filing the Whitehouse tax return to a date other than that provided by the automatic federal extension, the taxpayer must file such a request in writing to the Commissioner prior to the due date of the automatic extension. The extension may be granted by the Commissioner upon terms and conditions set forth by him or her. A taxpayer's extension request may be denied if the taxpayer is delinquent in the filing of any tax returns or payments of any taxes, penalties, or interest due.

(j) The failure of any taxpayer to receive or procure a return, declaration or other required form shall not excuse the taxpayer from filing such forms or from paying the tax due.

(k) Payments received shall be allocated first to taxes due, then to penalties due, and then to interest due.

(l) The Commissioner is authorized, but is not required, to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Commissioner that, due to certain hardship conditions, he is unable to pay the full amount of tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this chapter.

(m) The Commissioner of Taxation is hereby authorized to provide by regulation, subject to the approval of the Board of Review, that the return of an employer or employers (W-2 Form), showing the amount of tax deducted by said employer or employers from the salaries, wages, commissions or other compensation of an employee and paid by him or them to the Commissioner of Taxation shall be accepted as return required of any employee whose sole income, subject to the tax or taxes, under this chapter, is such salaries, wages, commissions or other compensation.

(n) In the case of a corporation that carries on transactions with its stockholders or other corporations related by stock ownership, interlocking directories or such other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the Village constituting a portion only of its total business, the Commissioner of Taxation may require such additional information as may be necessary to ascertain whether net profits allocable to the Village are being distorted by the shifting of income, apportionment of expenses, or other devices available to a common controller. If the Commissioner of Taxation finds that a person's net profits allocable to the Village are distorted by reasons of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions within such division, branch, factory, office, laboratory or activity or by some other method, he may adjust such transactions so as to produce a fair and proper allocation of net profits to the Village. If necessary, the Commissioner of Taxation may require the filing of a consolidated return.

(o) A taxpayer who has overpaid the amount of tax due which the Village is entitled under the provision of this chapter may have such overpayment applied against any subsequent liability hereunder, or at his election, indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than ten dollars (\$10.00) shall be collected or refunded.

(Ord. 23-2003. Passed 11-18-03.)

185.06 COLLECTION AT THE SOURCE; WITHHOLDING BY EMPLOYER.

(a) Each employer within or doing business within the Village who employs one or more persons on a salary, wage, commission or other compensation basis as defined at 185.02(q) shall at the time of payment thereof, deduct the tax of one and one half percent (1-1/2%) from the gross salaries, wages, commissions or other compensation earned by Village residents regardless of where such compensation was earned and shall deduct the tax of one and one-half per cent (1- 1/2%) from the salaries, wages, commissions or other compensation earned within the Village by nonresidents.

(b) Notwithstanding the provisions of subsection (a) hereof, where an employer within or doing business within the Village who employs a Village resident in another taxing municipality requiring such employer to deduct its tax from all employees engaged therein, such employer shall withhold for and remit to the Village of Whitehouse only the difference, if any, between the tax imposed by such other taxing municipality and the tax imposed by this chapter; or shall withhold Whitehouse tax on one hundred percent (100%) of the income subject to Whitehouse tax if the Whitehouse resident/employee is employed at a location where a municipal tax is not imposed.

(c) Each such employer shall, on or before the last day of the month following each calendar quarter, make a return and remit to the Village the tax hereby required to be withheld. Such return shall be on a form or forms prescribed by or acceptable to the Commissioner and shall be subject to the rules and regulations prescribed therefor by the Commissioner. Such employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such taxes have in fact been withheld.

(d) On or before March 1, following any calendar year, such employer shall file with the Commissioner an annual reconciliation return (Form W-3) along with an information return (Form W-2) for such employee from whom Whitehouse income tax has been or should have been withheld, showing the name, address, Social Security number of the employee, the total amount of compensation paid during the year and the amount of municipal income tax withheld from the employee with the municipality for which said tax was withheld identified. The information return shall also include all of the information required to be reported by the employer to IRS on a W-2 form. At the time of filing the annual reconciliation return, the employer shall pay over any amounts deducted or which should have been deducted during the preceding year but which was not remitted. The annual reconciliation form shall be obtained from the Commissioner.

(e) Such employer in collecting such tax shall be deemed to hold the same, until payment is made by such employer to the Village, as a trustee for the benefit of the Village and any such tax collected by such employer from its employees shall, until the same is paid to the Village, be deemed a trust fund in the hands of such employer.

(f) The officer or the employee having control of or charged with the responsibility of filing the return and making payment, shall be personally liable for the failure to file the return or pay the tax due as required by this section. The dissolution, bankruptcy or reorganization of any such employer does not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or pay taxes, penalties or interest due.

(g) All individuals, businesses, employers, brokers or others who are required under the Internal Revenue Code to furnish Forms 1099 to IRS for individuals or businesses to whom or which they have nonemployee compensation shall furnish copies of the said form 1099's to the Commissioner or in lieu thereof, a list containing the same information as required by IRS on the 1099's on or before the due date for such forms 1099's as established by IRS. Failure to provide the foregoing information may result in any deduction for payment by the taxpayer taken on the taxpayer's return to be disallowed.

(h) Every employer shall retain all records necessary to compute withholding taxes due Whitehouse for a period of five years from the date of the Reconciliation Form, W-2 Forms and 1099 Forms are filed.

(i) The return is considered received when all returns and forms required to be filed by an employer are received on the date postmarked by the United States Postal Service or on the date delivered without mailing by the taxpayer to the Whitehouse Tax Office.

(j) The failure of any employer to receive or procure a return, or other required form shall not excuse the employer from preparing any information return, withholding tax returns or from filing such forms or from paying the tax due.

(k) Payments received for withholding taxes due shall be applied first to taxes due, then to penalty due, and then to interest due.
(Ord. 23-2003. Passed 11-18-03.)

185.07 DECLARATION; ESTIMATED TAX PAYMENT.

(a) Every person who anticipates any income subject to the tax imposed herein at Section 185.03 shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any. Such declaration shall be filed on or before April 15th of each year during the life of this chapter, or within three months and fifteen days of the date the taxpayer becomes subject to the tax for the first time.

- (1) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.
- (2) Such declaration shall be filed upon a form furnished by or obtainable from the Commissioner. Credit shall be taken for Whitehouse income tax to be withheld, if any, from any portion of such income. In addition, credit may be taken for the tax payable to other taxing municipalities in accordance with the provisions of Section 185.14.
- (3) The original declaration or any subsequent amendment thereof may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.

(b) The taxpayer making the declaration shall, at the time of the filing thereof, pay to the Commissioner at least twenty-two and one half percent (22-1/2%) of the estimated annual tax due after deducting:

- (1) Any portion of such tax to be deducted or withheld at the source pursuant to Section 185.06;
- (2) Any credits allowable under the provisions of Section 185.14; and
- (3) Any overpayment of previous year's tax liability which the taxpayer has not elected to have refunded.

At least a similar amount shall be paid on or before the last day of the seventh (7th), tenth (10th) and thirteenth (13th) months after the beginning of the taxpayer's taxable year, provided that in case an amended declaration has been duly filed, or the taxpayer is taxable for a portion of the year only, the unpaid balance shall be paid in equal installments on or before the remaining payment dates.

(c) The declarations for the 2nd, 3rd, and 4th quarters shall be due on July 31st and October 31st of the current year and on January 31st of the subsequent year. The amounts due on those dates are not to exceed forty-five percent (45%), sixty-seven and one-half percent (67-1/2%) and ninety per cent (90%) respectively of the tax estimated to be due. (O.R.C. 718.08)

(d) Taxpayers reporting on a fiscal year basis shall file a Declaration within four (4) months and fifteen days after the beginning of each fiscal year and thereafter at the end of the 7th, 10th and 13th months.

(e) Effective January 1, 2003, no penalty or interest will be assessed for late payment or nonpayment of estimated taxes, if the taxpayer was not domiciled in Whitehouse on the 1st day of January of the current calendar year or if the taxpayer has paid estimated payments equaling one hundred per cent (100%) of the taxpayer's liability for the immediately preceding tax year, provided that the immediately preceding tax year reflected a 12 month tax period and the taxpayer filed a return for the immediately preceding year. (O.R.C. 718.08)

(f) On or before the 15th day of the fourth (4th) month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due to Whitehouse shall be paid therewith in accordance with the provisions of Section 185.05.
(Ord. 23-2003. Passed 11-18-03.)

185.08 DUTIES OF THE COMMISSIONER OF TAXATION.

(a) The Tax Commissioner shall be appointed pursuant to Section 7.03 of the Village Charter.

(b) It shall be the duty of the Commissioner of Taxation to collect and receive the tax imposed by this chapter in the manner prescribed herein. It shall also be his duty to keep an accurate record showing the amount received by him by each taxpayer required to file a declaration and/or make a return, the date of said receipt and to preserve such records for a period of not less than five (5) years.

(c) The Commissioner is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this chapter, including provisions for the reexamination and corrections of returns and payments.

(d) Whenever the Commissioner issues a decision that is appealable to the Board of Review (185.12), he or she must inform the taxpayer of their right to appeal and the manner in which the appeal is to be filed.

(e) The Commissioner is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Commissioner that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this chapter.

Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Section 185.11 and 185.99 shall apply.

(f) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Commissioner may determine the amount of tax appearing to be due Whitehouse from the taxpayer and shall send to such taxpayer by certified mail a written statement showing the amount of tax, if any, so determined, together with interest and penalties thereon. Such determination may be modified or amended based upon information or data subsequently secured or made available to the Commissioner. If the taxpayer fails to respond to the assessment within thirty (30) calendar days, the tax, penalties and interest assessed shall become due and payable and collectible as are other unpaid taxes. This does not apply to routine audit adjustments.

(g) Subject to the consent of the Board of Review or pursuant to the regulation approved by such Board, the Commissioner shall have the power to compromise any interest and penalty, or both, imposed by Section 185.10 of the chapter.

(Ord. 23-2003. Passed 11-18-03.)

185.09 INVESTIGATION POWERS; PENALTIES FOR DIVULGING CONFIDENTIAL INFORMATION.

(a) The Commissioner of Taxation, or any authorized employee, is hereby authorized to examine the books, papers, records, and federal income tax returns of any employer or of any taxpayer or person subject to the tax for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Commissioner of Taxation, or his duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(b) The Commissioner of Taxation is hereby authorized to order any person to appear at the office of the Commissioner of Taxation and examine any person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

(c) The refusal to produce books, papers, records, and federal income tax returns or the refusal of such examination by any employer or person subject or presumed to be subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Commissioner of Taxation authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 185.99.

(d) Any information gained as a result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes, which includes the exchanging of information with other tax authorities, and in accordance with proper judicial order. Any person divulging such information in violation of this chapter shall be charged with a third degree misdemeanor. Each disclosure shall constitute a separate offense.

(Ord. 23-2003. Passed 11-18-03.)

185.10 INTEREST AND PENALTIES.

(a) All taxes imposed and monies withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they became due shall bear interest at the rate of one-half percent (1/2 %) per month or fraction thereof. In addition to interest as provided in subsection (a) hereof, penalties for nonpayment of taxes, or failure to file a return when due and monies required to be withheld by employers under the provisions of this chapter are hereby imposed as follows:

- (1) For failure to pay taxes due, other than taxes withheld, one percent (1 %) of the amount of unpaid tax for each month, or fraction thereof.
- (2) For failure to file a Village income tax return when due, a late filing fee of \$5.00 per month or fraction thereof.

- (3) For failure to remit tax withheld or required to be withheld from employees, two per cent (2%) of the tax withheld or required to be withheld per month or any fraction thereof.
- (4) Provided, however, that penalties shall not be assessed on any additional tax assessment made by the Commissioner of Taxation, when a return has been filed in good faith and the tax paid thereon within the time prescribed herein; and provided further, that neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, provided an amended return is filed and the additional tax is paid within three months after final determination of federal tax liability.
(Ord. 23-2003. Passed 11-18-03.)

185.11 COLLECTION OF UNPAID TAXES BY CIVIL LITIGATION AND REFUNDS OF OVERPAYMENTS.

(a) All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Such suit shall be brought within three (3) years after the tax was due or the return was filed, whichever is later in accordance with O.R.C. 718.12(A).

(b) Taxes erroneously paid shall not be refunded unless a claim for refund is made within the time limitation specified in O.R.C. 718.12 (C). Amounts less than ten dollars (\$10.00) shall not be refundable.
(Ord. 23-2003. Passed 11-18-03.)

185.12 BOARD OF REVIEW.

(a) A Board of Review, consisting of the Village Solicitor, the Mayor and the Finance Director, is hereby created. All rules and regulations and amendments or changes thereto, which are adopted by the Commissioner of Taxation under the authority conferred by this chapter, must be approved by the Board of Review before the same become effective. After such approval, such rules, regulations, amendments and changes shall be filed with the Clerk of Council and shall be opened to public inspection.

(b) The Village Solicitor shall be the Chairperson of the Board of Review and the Finance Director shall serve as Secretary thereof. A majority of the members shall constitute a quorum. The Board of Review shall adopt its own procedural rules and shall keep a record of all transactions.

(c) Any taxpayer dissatisfied with any ruling or decision of the Commissioner which was made under the authority conferred by Section 185.08(c) and who has filed the required returns or other documents pertaining to the contested issue may appeal in writing therefrom to the Board of Review within thirty (30) calendar days from the issuance of such ruling or decision by the Commissioner. The appeal must state the alleged errors in the Commissioner's ruling or decision. The Board must schedule a hearing within forty-five (45) calendar days of receiving the appeal unless the taxpayer expressly waives the hearing and chooses instead to let the Board render its decision on the writings submitted by the Commissioner and the taxpayer. If the taxpayer does not waive the hearing, the taxpayer is entitled to appear before the Board and bring with him or her representation of his or her choosing. The Board must issue a written decision within ninety (90) days after the final hearing and send a notice of its decision by ordinary mail to the taxpayer within 15 days after issuing the decision. If the Board fails to comply with the provisions of the Section, the taxpayer's appeal will default in favor of the taxpayer. (O.R.C. 718.11 and 733.85, Section 3). The records of the hearing are not open to the public nor is the hearing subject to the Ohio open meeting law.

(d) Any person dissatisfied with any ruling or decision of the Board of Review may appeal therefrom to a court of competent jurisdiction within thirty (30) days from the announcement of such ruling or decision.

(Ord. 23-2003. Passed 11-18-03.)

185.13 RESERVED.

185.14 TAX CREDIT AND RELIEF.

Reduced tax credit to resident taxpayer.

(a) When the taxable income of a Whitehouse resident is subject to a municipal income tax in another municipality on the same income taxable under this chapter, such resident shall be allowed a credit equal to three quarters of one percent (0.75%) on the income subject to tax by the other municipality. This credit cannot exceed the tax imposed by this chapter on the same income.

(b) Method of applying for credit:

- (1) No credit will be given unless the taxpayer claims such on his final return or other form prescribed by the Commissioner of Taxation, and presents such evidence of the payment of a similar tax to another municipality, as the Commissioner of Taxation may require.
- (2) A statement satisfactory to the Commissioner of Taxation from the taxing authority of the municipality to which the taxes are paid that a Village resident or his employer is paying the tax, shall be considered as fulfilling the requirement section.

(c) Any claims for credit income taxes paid another municipality on the same taxable income hereunder, and any assignment of the reciprocal credit provided for herein, must be made not later than the time within which a claim for refund may be made. Reciprocal credits duly assigned to the municipality of residence may be presented by such municipality to the Commissioner of Taxation of the Village at any time within three (3) years after the receipt thereof. Failure to make such claim for credit, or to assign the reciprocal credit provided for herein within the time prescribed herein shall render such claim or assignment null and void.

(d) No credit shall be given for any state or school district income tax.
(Ord. 23-2003. Passed 11-18-03.)

185.15 COLLECTION OF TAX AFTER TERMINATION OF THIS CHAPTER.

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed according to law, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of said taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 185.11 and 185.99.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 185.05 and 185.06 as though the same were continuing.
(Ord. 23-2003. Passed 11-18-03.)

185.16 CHAPTER VS. REGULATIONS.

If any wording in the Regulations conflicts with wording in this chapter, the wording in the chapter will prevail.

(Ord. 23-2003. Passed 11-18-03.)

185.17 INFORMATION ON RENTAL OR LEASED PROPERTY.

(a) Effective January 1, 2003, all of the owners of rental or leased property located within the Village who, pursuant to a rental or lease agreement, rent or lease such property to tenants for use as residential premises, shall file with the Commissioner of Taxation on the first day of each calendar year, a report containing the names and address of each such occupying tenant.

(b) Commencing January 1, 2003 and thereafter, within thirty (30) days after a new tenant occupies rental or leased property within the Village for use as residential premises, all owners of such property shall file with the Commissioner of Taxation, a report containing the names and addresses of each such occupying tenant.

(c) Commencing January 1, 2003, and thereafter, within thirty (30) days after a tenant vacates rental or leased property within the Village, the owner of such property shall file with the Commissioner of Taxation, a report containing the name of the vacated tenant, the date on which the premises were vacated, and the forwarding address of the vacating tenant, if known.

(d) As used in this section:

- (1) "Tenant" means a person entitled under the rental or lease agreement to the use and occupancy of the residential premises to the exclusion of others.
- (2) "Owner" means an individual or any other entity who or which acquired title to the property by deed or who or which may have an equitable interest in the property by virtue of a land contract or who or which sublets the property. (Ord. 23-2003. Passed 11-18-03.)

185.99 VIOLATIONS; CRIMINAL PROSECUTIONS.

(a) Any person or taxpayer who or which shall:

- (1) Fail, neglect or refuse to make any return, information return, or declaration required by this chapter; or
- (2) Make any false or fraudulent return; or knowingly make any incomplete return; or
- (3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter; or
- (4) Fail, neglect or refuse to withhold the tax from his employees or to remit such withholding to the Commissioner of Taxation; or
- (5) Refuse to permit the Commissioner of Taxation, or any duly authorized agent, or employee to examine his books, records, papers and federal income tax returns relating to the income or net profits of a taxpayer; or
- (6) Refuse to appear before the Commissioner of Taxation and to produce his books, records, papers, or federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Commissioner of Taxation; or

- (7) Refuse to disclose to the Commissioner of Taxation any information with respect to the income or net profits of a taxpayer; or
- (8) Fail to comply with the provisions of this chapter, or any order or subpoena of the Commissioner of Taxation, authorized hereby; or
- (9) Attempt to do anything whatsoever to avoid payment of the whole or any part of the tax, penalties or interest imposed by this chapter shall be subject to prosecution for a third degree misdemeanor.

(b) All prosecutions under this section must be commenced within the time specified in O.R.C. 718.12 B.

(c) The failure of any employer, taxpayer or person to receive or procure a return, declaration or other required form, shall not excuse him from making any return, information return, or declaration return, from filing such form or from paying any tax due.
(Ord. 23-2003. Passed 11-18-03.)

